

§ 1216.41

7 CFR Ch. XI (1–1–04 Edition)

§ 1216.41 Nominations.

(a) All nominations authorized under § 1216.40 shall be made within such a period of time as the Secretary shall prescribe. Eligible peanut producer organizations within each state as certified pursuant to § 1216.70 shall nominate two qualified persons for each member and each alternate member. The nominees shall be elected at an open meeting among peanut producers eligible to serve on the Board. Any certified peanut producer organization representing a minor peanut-producing state may nominate two eligible persons for each member and two eligible persons for each alternate member.

(b) As soon as practicable after this subpart becomes effective, the Secretary shall obtain nominations for appointment to the initial promotion Board from certified nominating organizations. In any subsequent year in which an appointment to the Board is to be made, nominations for positions whose terms will expire shall be obtained from certified nominating organizations by the Board's staff and submitted to the Secretary by May 1 of such year, or other such date as approved by the Secretary.

(c) Except for initial Board members, whose nomination process will be initiated by the Secretary, the Board shall issue the call for nominations by March 1 of each year.

(d) The nomination meeting shall be announced 30 days in advance:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as deemed advisable.

(e) At nominations meetings, Department personnel will be present to oversee and to verify eligibility and count ballots.

§ 1216.42 Selection.

From the nominations, the Secretary shall select the members of the Board and alternates for each primary peanut-producing state. The Secretary shall select one member and one alter-

nate from all nominations submitted by certified peanut producer organizations representing minor peanut-producing states.

§ 1216.43 Term of office.

All members and alternates of the Board shall each serve for terms of three years, except that the members and alternates appointed to the initial Board shall serve proportionately for two-, three-, and four-year terms, with the length of the terms determined at random. No member or alternate may serve more than two consecutive three-year terms. An alternate, after serving two consecutive three-year terms, may serve as a member for an additional two consecutive three-year terms. A member, after serving two consecutive three-year terms, may serve as an alternate for an additional two consecutive three-year terms. Each member and alternate shall continue to serve until a successor is selected and has qualified.

(a) Those members serving initial terms of two or four years may serve one successive three-year term.

(b) Any successor serving one year or less may serve two consecutive three-year terms.

§ 1216.44 Vacancies.

To fill any vacancy resulting from the failure to qualify of any person selected as a member or as an alternate member of the Board, or in the event of death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and selected in the manner specified in § 1216.40.

§ 1216.45 Alternate members.

An alternate member of the Board, during the absence of the member for the primary peanut-producing state or at-large member for whom the person is the alternate, shall act in the place and stead of such member and perform such duties as assigned. In the event of death, removal, resignation, or disqualification of any member, the alternate for that state or at-large member shall act for the member until a successor for such member is selected and

qualified. In the event that both a producer member of the Board and the alternate are unable to attend a meeting, the Board may not designate any other alternate to serve in such member's or alternate's place and stead for such a meeting.

§ 1216.46 Procedure.

(a) A majority of the members of the Board, including alternate members acting for members, shall constitute a quorum.

(b) At assembled meetings, all votes shall be cast in person. Board actions shall be weighted by value of production as determined by a primary peanut-producing state's three-year running average of total gross farm income derived from all peanut sales. The at-large Board member's vote shall be weighted by the collective value of production from all minor peanut-producing states' three-year running average of total gross farm income derived from all peanut sales. Any Board action shall require the concurring votes of members or alternates from states representing more than 50 percent of total U.S. gross farm income derived from all peanut sales, plus an additional two votes from any other Board members, provided a minimum of five votes concur.

(c) For routine and noncontroversial matters which do not require deliberation and the exchange of views, and in matters of an emergency nature when there is not time to call an assembled meeting of the Board, the Board may also take action as prescribed in this section by mail, facsimile, telephone, or any telecommunication method appropriate for the conduct of business, but any such action shall be confirmed in writing within 30 days.

(d) There shall be no voting by proxy.

(e) The chairperson shall be a voting member.

§ 1216.47 Compensation and reimbursement.

The members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for reasonable travel expenses, as approved by the Board, incurred by them in the performance of their duties as Board members.

§ 1216.48 Powers and duties.

The Board shall have the following powers and duties:

(a) To administer the Order in accordance with its terms and conditions and to collect assessments;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board, and such rules as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

(c) To meet, organize, and select from among the members of the Board a chairperson, other officers, committees, and subcommittees, as the Board determines to be appropriate;

(d) To employ persons, other than the members, as the Board considers necessary to assist the Board in carrying out its duties and to determine the compensation and specify the duties of such persons;

(e) To develop programs and projects, and enter into contracts or agreements, which must be approved by the Secretary before becoming effective, for the development and carrying out of programs or projects of research, information, or promotion, and the payment of costs thereof with funds collected pursuant to this subpart. Each contract or agreement shall provide that any person who enters into a contract or agreement with the Board shall develop and submit to the Board a proposed activity; keep accurate records of all of its transactions relating to the contract or agreement; account for funds received and expended in connection with the contract or agreement; make periodic reports to the Board of activities conducted under the contract or agreement; and make such other reports available as the Board or the Secretary considers relevant. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan, or project together with a budget or budgets that show the estimated cost to be incurred for such program, plan, or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted,